

AUG 19 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICHARD DEBUSK,

Plaintiff - Appellant,

v.

WACHOVIA BANK NA,

Defendant,

and

GUGLIELMO & ASSOCIATES;  
CAPITAL ONE AUTO FINANCE,

Defendants - Appellees.

No. 06-17344

D.C. No. CV-06-00324-NVW

MEMORANDUM \*

Appeal from the United States District Court  
for the District of Arizona  
Neil V. Wake, District Judge, Presiding

Submitted August 15, 2008\*\*  
San Francisco, California

---

\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: O'SCANNLAIN and SILVERMAN, Circuit Judges, and SINGLETON<sup>\*\*\*</sup>, Senior District Judge.

In this action Richard W. DeBusk sued Capital One Auto Finance and others alleging violations of the Fair Credit Reporting Act. DeBusk moved for voluntary dismissal with prejudice of Capital One under Federal Rule of Civil Procedure 41(a)(2). Capital One moved for attorney's fees under 15 U.S.C. § 1681n(c) and Rule 41(a)(2). The district court granted the motion to dismiss and awarded Capital One \$10,000 in attorney's fees. DeBusk appeals the award of attorney's fees. The remaining facts are known to the parties and will not be repeated.

We have reviewed the record and conclude that the district court did not commit clear error in finding that DeBusk acted in bad faith in this action, nor was the award of attorney's fees to Capital One an abuse of discretion. *See Guerrero v. TJM Acquisitions LLC*, 499 F.3d 926, 933 (9th Cir. 2007) (per curiam) (applying the analogous provision in the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k(a)(3)).

AFFIRMED.

---

<sup>\*\*\*</sup> The Honorable James K. Singleton, United States District Judge for the District of Alaska, sitting by designation.